

SUPPLEMENTAL AGREEMENT, made this 21st day of May, 1973, between BURLINGTON NORTHERN INC., a Delaware corporation, hereinafter called "Railroad", and THE ANACONDA COMPANY, a corporation, successor in interest to Anaconda Aluminum Company, hereinafter called "Industry".

WITNESSETH:

WHEREAS, the parties hereto are parties to an Industrial Track Agreement dated October 12, 1967 as supplemented by agreement dated August 3, 1970 relating to the re-arrangement, construction, maintenance, operation and ownership of a system of trackage at Industry's plant at Conkelley, Montana; and

WHEREAS, Sections 6 of said agreements provide in part that Industry shall not place or permit to be placed or to remain any material, structure, pole or other obstruction within 8-1/2 feet laterally of the center or within 23 feet vertically from the top of the rail of said track; and

WHEREAS, Industry in order to expedite movement of cars into its facilities desires to install, maintain and operate car pullers adjacent to a portion of said track with less than statutory lateral clearances as shown on the plat hereto attached, marked Exhibit "A" and by this reference made a part hereof.

NOW THEREFORE, it is mutually agreed between the parties as follows:

Section 1. Notwithstanding the provisions of Sections 6 of said agreement dated October 12, 1967 and supplemental agreement dated August 3, 1970, Railroad agrees that Industry may install, maintain and operate said car pullers with lateral clearances less than provided in said Sections 6 and less than the statutory requirements subject to the following conditions:

(a) Railroad agrees to make application to the Montana Board of Railroad Commissioners and Public Service Commission to secure permission for the impaired lateral clearances.

(b) Industry agrees to indemnify and hold harmless Railroad from any and all liability for injury to or death of persons, or loss of or damage to property, including employees and property of the parties hereto, caused by or in any manner arising or growing out of the continued maintenance of said car pullers with the aforementioned impaired lateral clearances.

(c) Industry further agrees to maintain signs to be lighted during periods of darkness which are sufficient to warn the crews of trains using said track of the said impaired lateral clearances and to abide by and conform with any other requirements of Railroad and said Commission dictated from time to time with respect thereto.

Section 2. Except as herein modified, said agreement dated October 12, 1967 and supplemental agreement dated August 3, 1970 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their officers thereunto duly authorized the day and year first above written.

BURLINGTON NORTHERN INC.

By

[Signature]
Vice President

APPROVED AS TO FORM

By

Date

5-9-73

ENTERED ON TICKLER

☒ YES

☒ ENTRY NOT REQUIRED

[Signature], 1973
BY [Signature]

THE ANACONDA COMPANY

By

[Signature]
Title: Vice President